UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,968	02/25/2004	Connie June Colman	47004.000276	8475

21967   7590   07/14/2010

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER
FIELDS, BENJAMIN S

ART UNIT	PAPER NUMBER
3684	

MAIL DATE	DELIVERY MODE
07/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 April 2010*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-18,20-25,27-47,49-62,64-69,71-84,86-88 and 93-98* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-18,20-25,27-47,49-62,64-69,71-84,86-88 and 93-98* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *7 May 2010*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Introduction

1.   The following is a **FINAL** Office Action in response to the communication received on 30 April 2010. Claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88, and 93-98 are now pending in this application.

Response to Amendments

2.   Applicants Amendments to Claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88, and 93-98 has been acknowledged in that: **Claims 24 and 96 have been newly amended; NO Claims have been newly canceled; NO Claims have been newly added**; hence, as such, **Claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88, and 93-98 are pending in this application**.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88, and 93-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahoney et al. (US Pat. No. 7,287,008), [hereinafter Mahoney] in view of Zandi (US Pat. No. 5,966,699), [hereinafter Zandi].

Referring to Claim 1: Mahoney discloses a computer implemented method for [construction] loan administration, wherein the method is carried out, at least in part, using a system comprising a computer processor, the method comprising the steps of: registering, through the computer processor with the system for [construction] loan administration wherein at least one loan is identified and the at least one loan comprises an existing [construction] loan (Mahoney: Figures 1-2; Column 2, Lines 15-65); identifying one or more participants associated with the at least one loan to join the system for [construction] loan administration (Mahoney: Abstract; Figure 12; Column 1, Line 63-Column 3 Line 15); assigning, through the computer processor, one or more of privileges and roles to each of the one or more participants (Mahoney: Figures 11-12); managing the at least one loan via the computer processor of the system through an online interface wherein data associated with the at least one loan may be accessed and viewed according to user input (Mahoney: Figures 1-2; Column 2, Lines 25-58; Column 3, Lines 5-15; Column 5, Line 13-Column 6, Line 21); accessing, by the computer processor, loan data specific for the at least one loan wherein the loan data comprises budget summary data, wherein the budget summary data comprises a line item budget and a disbursed amount (Mahoney: Figures 2-8; Column 2, Line 14-Column 4, Line 5); performing, by the computer processor, one or more actions concerning the at least one loan wherein the one or more actions submitting information to a receiving entity (Mahoney: Column 5, Line 53-Column 6, Line 21; Column 11, Line 35-Column 12, Line 18); specifying, through the computer processor, one or more [triggering] events associated with the at least one loan (Mahoney: Column 1, Line 67-

Column 2, Line 67); specifying, through the computer processor, one or more contacts to be notified after an occurrence of the one or more [triggering] events (Mahoney: Column 1, Line 67-Column 2, Line 67); and specifying, through the computer processor, one or more preferred modes of notification for the one or more contacts at the occurrence of the one or more [triggering] events (Mahoney: Figures 9, 11-12; Column 1, Line 67-Column 2, Line 67).

Mahoney, however, does not expressly discuss a method for construction loan administration, a method wherein the one or more actions comprise at least submitting one or more draw requests, specifically utilize the term "trigger", or wherein the draw request are based on one or more stages of construction.

Zandi, in a similar environment, shows a method for construction loan administration, a method wherein the one or more actions comprise at least submitting one or more draw requests, utilization of "trigger", or wherein the draw request are based on one or more stages of construction (Zandi: Figures 4-6; Column 2, Line 12-Column 3, Line 30; Column 5, Line 45-Column 8, Line 65; Column 9, Lines 48-65).

At the time of invention it would have been obvious to one of ordinary skill in the art to modify the system and method of Mahoney for loan organization and underwriting to allow the one or more actions to comprise at least submitting one or more draw requests with the features of Zandi for a system and method for conducting loan auction over computer network for the purposes of providing users varied methods of choices and financial models (Mahoney: Column 1, Line 63-Column 2, Line 11).

Referring to Claims 2 and 7: Mahoney teaches a method wherein the loan data further comprises one or more of insurance data, and interest data (Mahoney: Column 2, Line 59-Column 3, Line 4; Column 8, Lines 55-64).

Referring to Claims 3 and 10-13: Mahoney discusses a method wherein the step of managing further comprises the step of: accessing, by the computer processor, collateral data associated with the at least one loan (Mahoney: Column 4, Line 65-Column 5, Line 12).

Referring to Claim 5: Mahoney discusses the limitations of Claim 1.

Mahoney, however, does not expressly teach a method wherein the one or more draw requests comprise line item draw requests.

Zandi, in a similar environment, shows a method wherein the one or more draw requests comprise line item draw requests (Zandi: Figures 4-6; Column 2, Line 12-Column 3, Line 30; Column 5, Line 45-Column 8, Line 65).

At the time of invention it would have been obvious to one of ordinary skill in the art to modify the system and method of Mahoney for loan organization and underwriting to allow the one or more actions to comprise at least submitting one or more draw requests with the features of Zandi for a system and method for conducting loan auction over computer network for the purposes of providing users varied methods of choices and financial models (Mahoney: Column 1, Line 63-Column 2, Line 11).

Referring to Claim 6: Mahoney shows the limitations of Claim 1.

Mahoney, however, does not expressly disclose a method wherein the one or more draw requests comprise unit draw requests for one or more of new starts and existing units.

Zandi, in a similar environment, shows a method wherein the one or more draw requests comprise unit draw requests for one or more of new starts and existing units (Zandi: Figures 4-6; Column 2, Line 12-Column 3, Line 30; Column 5, Line 45-Column 8, Line 65).

At the time of invention it would have been obvious to one of ordinary skill in the art to modify the system and method of Mahoney for loan organization and underwriting to allow the one or more actions to comprise at least submitting one or more draw requests with the features of Zandi for a system and method for conducting loan auction over computer network for the purposes of providing users varied methods of choices and financial models (Mahoney: Column 1, Line 63-Column 2, Line 11).

Referring to Claim 8: Mahoney discusses a method further comprising the step of: requesting, through the computer processor, one or more reports to be generated for the at least one loan based on one or more user defined specifics (Mahoney: Column 5, Lines 13-47; Column 12, Line 58-Column 13, Line 8).

Referring to Claim 9: Mahoney shows a method wherein the step of performing one or more actions comprises the step of: adding, through the computer processor, collateral data for at least one new collateral associated with the loan (Mahoney: Column 8, Lines 55-64).

   Referring to Claim 14: Mahoney discusses a method further comprising the step

of: updating, through the computer processor, data associated with the at least one

loan; and importing, by the computer processor, the updated data to a receiving entity

(Mahoney: Column 5, Line 53-Column 6, Line 21; Column 11, Line 35-Column 12, Line

18).

   Referring to Claim 15: Claim 15 parallels the limitations of Claims 3 and 11. As

such, Claim 15 is rejected under the same basis as are Claims 3 and 11 as mentioned

supra.

   Referring to Claim 16: Mahoney shows a method further comprising the step of:

updating, through the computer processor, data associated with the at least one loan;

specifying, through the computer processor, one or more filters to be applied to the

updated data; and exporting, by the computer processor, the filtered updated data from

the system for [construction] loan administration to a remote device (Mahoney: Figure 1;

Column 5, Lines 13-65; Claims 1, 18).

   Mahoney, however, does not expressly discuss a method for construction loan

administration.

   Zandi, in a similar environment, shows a method for construction loan

administration (Zandi: Figures 4-6; Column 2, Line 12-Column 3, Line 30; Column 9,

Lines 48-65).

   At the time of invention it would have been obvious to one of ordinary skill in the

art to modify the system and method of Mahoney for loan organization and underwriting

to allow the one or more actions to comprise at least submitting one or more draw

requests with the features of Zandi for a system and method for conducting loan auction over computer network for the purposes of providing users varied methods of choices and financial models (Mahoney: Column 1, Line 63-Column 2, Line 11).

Referring to Claim 17: Claim 17 reflects the limitations of Claim 11. As such, Claim 17 is rejected under the same basis as is Claim 11 as mentioned supra.

Referring to Claim 18: Mahoney teaches a method wherein the remote device comprises one or more of a personal computer, personal digital assistant and wireless device (Mahoney: Figure 1; Column 5, Lines 13-66; Claims 1, 18).

Referring to Claim 20: Claim 20 parallels the limitations of Claims 3 and 11. As such, Claim 20 is rejected under the same basis as are Claims 3 and 11 as mentioned supra.

Referring to Claim 21: Mahoney discusses a method wherein one or more documents may be shared simultaneously with the authorized one or more participants via a common online interface (Mahoney: Figures 1-2; Column 3, Lines 5-15).

Referring to Claim 22: Mahoney discloses a method wherein the receiving entity is a lender entity (Mahoney: Column 10, Lines 44-60).

Referring to Claims 23-25, 27-35, 37-39, and 41-44: Claims 23-25, 27-35, 37-39, and 41-44 are the system for the method of Claims 1-3, 7-13, 15-17, and 20-22. As such, Claims 23-25, 27-35, 37-39, and 41-44 are rejected under the same basis as are Claims 1-3, 7-13, 15-17, and 20-22 as mentioned supra.

Referring to Claims 36, 58, and 60: Claims 36, 58, and 60 reflect the limitations of Claim 14. Hence, Claims 36, 58, and 60 are rejected under the same basis as is Claim 14 as mentioned supra.

Referring to Claims 40, 62, and 84: Claims 40, 62, and 84 parallel the limitations of Claim 18. Hence, Claims 40, 62, and 84 are rejected under the same basis as is Claim 18 as mentioned supra.

Referring to Claims 45-47, 49-57, 59-61, and 64-66: Claims 45-47, 49-57, 59-61, and 64-66 teach methods which parallel the limitations of Claims 1-3, 7-13, 15-17, 20-25, 29-35, 37-39, and 41-44. As such, Claims 45-47, 49-57, 59-61, and 64-66 are rejected under the same basis as are Claims 1-3, 7-13, 15-17, 20-25, 29-35, 37-39, and 41-44 as mentioned supra.

Referring to Claims 67-69, 71-79, 81-83, and 86-88: Claims 67-69, 71-79, 81-83, and 86-88 are the system for the method of Claims 45-47, 51-57, 59-61, and 64-66. As such, Claims 67-69, 71-79, 81-83, and 86-88 are rejected under the same basis as are Claims 45-47, 51-57, 59-61, and 64-66 as mentioned supra.

Referring to Claims 93-97: Claims 93-97 are directed towards an article of manufacture, a computer readable medium, and a computer implemented system for the execution of the method of Claim 1. As such, Claims 93-97 are rejected under the same basis as is Claim 1 as mentioned supra.

Referring to Claim 98: Mahoney shows a method, wherein the trigger event comprises one or more of the draw request, a draw approval, or an interest rate change (Mahoney: Column 2, Line 59-Column 3, Line 4; Column 8, Lines 55-64).

Response to Arguments

5.   Applicants arguments filed 30 April 2010 have been fully considered but have been found to be **moot** and **non-persuasive**. Applicants argue:

Argument
Rejections of Claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88 and 93-98
Under 35 U.S.C. § 103(a)

On pages 3-9 of the Office Action, claims 1-3, 5-18, 20-25, 27-47, 49-62, 64-69, 71-84, 86-88 and 93-98 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 7,287,008 ("Mahoney") in view of U.S. Pat. No. 5,966,699 to Zandi ("Zandi"). This rejection is respectfully traversed.

Zandi Fails to Cure the Deficiencies of Mahoney

Zandi discloses "[a] computer system for conducting an electronic loan auction over a computer network such as the Internet." See Zandi Abstract. Zandi's system and method allows prospective borrower to place an application for a loan over a computer system, receive approval, get bids from lenders, and then accept the desired loan. See, e.g., Zandi claim 1. As an initial comment, Applicant notes that Zandi is not directed specifically at construction loan administration as alleged by the Examiner. Zandi discloses [i]t should be apparent to one of skill in the art that the system and method of the present invention can be used for auctions of different types of loans, such as, but not limited to, mortgage, home equity loan, car loan, personal loan, commercial loan, construction loan and general business loan. Zandi col. 9, lines 49-54. This is the only mention of anything related to a construction loan in Zandi. Zandi's disclosure regarding a construction loan is merely as a type of loan capable of being used with Zandi's system and method for loan auctions. Further, Zandi has no disclosure relating to draw requests. Accordingly, Zandi by extension fails to disclose draw requests based on one or more stages of construction. Zandi's disclosure is directed at applying for, receiving bids, and obtaining a loan. Zandi fails to disclose anything related to using the loan

once obtained, let alone performing drawing requests. Therefore, Zandi fails to cure the admitted deficiencies of Mahoney. Therefore, the Examiner has failed to present a prima facie case of obviousness. Applicant respectfully requests that the obviousness rejection for at least claim 1 be withdrawn.

Regarding Argument

The Examiner respectfully disagrees. As a preliminary matter Appellants are reminded that patents are written by and for skilled artisans. See e.g. Vivid Technologies, Inc. v. American Science and Engineering, Inc., 200 F.3d 795, 804, 53 USPQ2d 1289, 1295 (Fed. Cir. 1999) ("patents are written by and for skilled artisans"). Thus, the Examiner therefore starts with the presumption that Appellants are skilled artisans who possess at least ordinary skill in the art. Consequently, it is the Examiner's position that because the patent references of record are directed to those with ordinary skill in this art; these references are clear, explicit, and specific as to what they teach. As previously mentioned by the Applicants, "Draw requests are used in the administration of the loan, following the approval and underwriting process, to distribute funds to parties involved in the loan, such as vendors associated with a construction project." Thus, while Mahoney does not expressly discuss or utilize the term "draw request", the Zandi prior art reference in combination with the Mahoney prior art reference shows such feature(s). Additionally, the disclosure of Mahoney encompasses a data acquisition computer program required for compiling loan origination information including financial and physical information relating to a specific property and multimedia real estate market information associated with the property, together with a credit request and loan application. The application requires a one-time entry of data in

a sequence of data input screens, which then auto-populates documents with input data and generated values wherever appropriate (See at least Mahoney: Column 1, Line 63-Column 2, Line 67). A user would then apply for a loan and at some point provide a draw request (amount) in order to have funds distributed to parties involved within the loan. As such, Mahoney would not require or even involve any substantial change to implement such a feature. Mahoney discloses generating a loan origination and underwriting report. One of ordinary skill in the art would understand that such draw request, as mentioned supra, simply means some request enacted throughout the process of a loan, whether that be at the beginning, end, or even before the initiation of such loan. Therefore, to include draw requests in Mahoney would be well known and recognizable to one skilled in the art. The Examiner also notes that the Applicants had previously submitted that "draw" and "draw request" have certain meanings in relation to loans, such as construction loans, that one of ordinary skill in the art would appreciate. Replacing "draw requests" with "requests" in claim 1, for example, would alter the meaning of the claim. For example, claim 1 recites, inter alia, "submitting one or more draw requests." If the word "draw" is deleted from the claim element, the claim would be altered in meaning. Likewise, if "draw request" was replaced with "trigger" the claim would also be altered in meaning and would read "submitting one or more triggers.""" The Examiner notes that the Applicants do not understand the reasoning surrounding such remark. The Examiner's comment regarding interchangeable terms pertains to the terms "draw", "request" and "draw request". Additionally, the Examiner has more that adequately enough given the claims a reasonable interpretation in view of the

specification, as required during examination. However, Applicants need to adequately recite the claim limitations in view of the meanings laid out within the specification. Applicants further mention that Zandi is not directed **_specifically_** at construction loan administration as alleged by the Examiner, but then that Zandi discloses that [i]t should be apparent to one of [ordinary] skill in the art that the system and method of the present invention can be used for auctions of different types of loans, such as, but not limited to, mortgage, home equity loan, car loan, personal loan, commercial loan, construction loan and general business loan. See Zandi at least at Column 9, Lines 49-54. Thus, Zandi does more than simply disclose that a construction loan is merely as a type of loan capable of being used with Zandi's system and method for loan auctions. As such, Zandi discloses a relation to the draw requests as discussed above. Zandi's disclosure is directed at applying for, receiving bids, obtaining a loan, and the administration of such loan. The Office Action has properly rejected the Applicant's disclosure as being unpatentable over Mahoney in view of Zandi. Furthermore, regarding the motivation to combine the Mahoney and Zandi prior art references, the Examiner notes that KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See KSR, 127 S. Ct. at 1741, 82 USPQ2d at 1396. Please see also:

In re Dembiczak, 50 USPQ2d 1614 (Motivation to Combine): We have noted that evidence of a suggestion, teaching, or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved.

In re Keller, 208 USPQ 871 (CCPA 1981) (Motivation Not Found in References): [The] Test of obviousness is not whether features of secondary reference may be bodily incorporated into primary reference's structure, nor whether claimed invention is expressly suggested in any one or all of references; rather, test is what combined teachings of references would have suggested to those of ordinary skill in art.

6.   The arguments as filed 30 April 2010 have been fully considered but have been found to be **moot** and **non-persuasive**. As the remaining claims depend directly or indirectly from the independent claims mentioned/discusses above, the Examiner maintains all previously asserted rejections.

Conclusion

7.   Accordingly, **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to BENJAMIN S. FIELDS at telephone number 571.272.9734. The examiner can normally be reached MONDAY THRU FRI between the hours of 9AM and 7PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMBIZ ABDI can be reached at 571.272.6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Dixon/

Primary Examiner, Art Unit 3684

Benjamin S. Fields
13 July 2010